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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 777 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

RAJESH B SHAH

Versus

STATE OF GUJARAT

Appearance:

MS SUMAN PAHWA for Petitioner
MR. S.S. Patel, ASSTT. GOVERNMENT PLEADER for
Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/06/1999

ORAL JUDGEMENT :

Heard the learned advocates for the respective
parties.

2. The petitioner challenges the order of preventive
detention dated 27th December 1998 made by the District
Magistrate, Panchmahals under the powers conferred upon

him under sec.3 of the Prevention of Blackmarketing and Maintenance of Supply of Essential Commodities Act, 1980.

3. The petition is required to be allowed on the short ground that the representation against the order of detention made to the District Magistrate, the detaining authority, was not attended to promptly. It is not disputed that the brother of the petitioner had on 2nd January 1999 made a representation to the District Magistrate against the order of detention. Said representation was delivered in the office of the District Magistrate on 6th January 1999 and the same is said to have been forwarded to the State Government for its consideration and decision under the cover of letter dated 27th January 1999. Since the order of detention made by the District Magistrate was approved by the State Government on 6th January 1999, the District Magistrate could not have considered and decided the representation made against the order of detention. However, it was his bounden duty to forward the said representation immediately to the State Government for its consideration and decision. In the present case the District Magistrate has failed to explain as to why the representation received on 6th January 1999 was not forwarded to the State Government till 27th January 1999. It, therefore, can legitimately be inferred that the said representation was not attended to and forwarded to the State Government without avoidable delay.

4. It is well settled that a person detained under the preventive detention law has a right to make representation against such detention and the concerned authority is expected to consider and decide the representation without unnecessary loss of time. Any slackness in considering such representation should vitiate continued detention of the detenu. In view of the above facts, in the present case also the continued detention of the petitioner is vitiated.

5. The petition is, therefore, allowed. The impugned order dated 27th December 1998, Annexure 'A' to the petition is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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